
Oma alia Om Parkash Vs Harbhajan Singh

Civil Revision No. 7354 of 2010

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Nov. 11, 2010

Hon'ble Judges: Kanwaljit Singh Ahluwalia, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Kanwaljit Singh Ahluwalia, J.

The Petitioner/tenant has lost in both the Courts below and has approached the Revisional Court to assail

the findings of fact.

2. Briefly stated, Respondent/landlord Harbhajan Singh, who is 75 years of age, instituted the eviction petition stating therein that he had built six

shops out of which four were rented out, whereas one shop is with his elder son who is running the Printing Press therein and the other shop is

being used as a drawing room of the house. The shop in dispute is required by the Respondent/landlord for settling his son namely Baljinder Singh,

who is unemployed.

3. Before both the Courts below, the following arguments were raised:

A) Firstly, the landlord can always vacate the shop where the Drawing Room is maintained and settle his son Baljinder Singh. Both the Courts

below have rejected this argument saying that the landlord is the best judge of his needs and the tenant cannot dictate the terms and say that the

landlord should shift his Drawing Room to accommodate his unemployed son.

B) The second argument raised was that the landlord himself has not appeared in the witness box, instead his elder son Surinder Singh appeared as

AW.2 as his attorney. Taking his argument further, Mr. Lath has submitted that even though the landlord is 75 years old and hard of hearing, he

should have appeared himself in the witness box as he is not suffering from any disability and the facts being in his knowledge, he could only

depose regarding his needs. This argument has also been rejected by both the Courts below by observing that the elder son of the landlord is well

acquainted with the needs of the family and is a competent witness.

C) Taking his argument further, Mr. Lath has submitted that even the Power of Attorney, executed by the landlord, suffer from defects. It is stated

that in the Power of Attorney the landlord has authorized his elder son Surinder Singh to appear as a witness in the Civil Court but not in the Court

of Rent Controller. I am unable to comprehend this argument as the Rent Court, for all intent and purposes, is a Civil Court.

D) Further, it has been submitted that Baljinder Singh, son of the Petitioner, is doing the dairy business with his father, therefore, to say that the

demised shop is required for his personal necessity is a made up affair. Both the Courts below have rejected this argument holding that the dairy

business is run by the landlord and his son Baljinder Singh has an independent right to start his own business.

E) Lastly, Mr. Lath has submitted that in the year 2000, the landlord had filed the eviction petition against Ram Kumar, another tenant and the

same was dismissed as withdrawn after the rent was enhanced. I have perused the judgments rendered by both the Courts below. This argument

has not been raised before them. Hence, the Petitioner cannot raise this argument before the Revisional Court, which for his own convenience, has

not been raised before both the Courts below.

Hence, there is no merit in the present revision petition and the same is hereby dismissed, in limine.